

Evolution of Current Ordinance Provisions for Cluster Subdivision Development

Cluster subdivision provisions to promote the preservation of open space have existed in some form in the Zoning Ordinance for over 40 years. In 1963, when these provisions were originally adopted, approval of such subdivisions occurred through the administrative review process as a by right subdivision option. The Zoning Ordinance was amended over the years to eliminate by right cluster subdivision development in favor of approval of all cluster subdivision development proposals through either the rezoning or special exception process. The information that follows provides a summary of the evolution of the cluster subdivision provisions.

1. Alternate Density Developments. On April 10, 1963, Zoning Ordinance Amendment ZOA #64 to the 1959 Zoning Ordinance was adopted which permitted an alternate density option for residential subdivisions through the administrative subdivision review process. The alternate density development option, which was renamed as cluster subdivisions with the adoption of the current Zoning Ordinance in 1978, permitted reduced lot sizes, lot widths and yard requirements from that of the conventional zoning district regulations and required a minimum of 3 acres of open space. From April of 1963 until August of 1978, the alternate density option was permitted in the RE-2, RE-1, RE-0.5, R-17 and R-12.5 Districts.
2. The Current Zoning Ordinance. On June 12, 1978, the current Zoning Ordinance was adopted with an effective date of August 14, 1978. On the effective date the alternate density subdivision option was renamed as cluster subdivisions and the former RE-2, RE-1, RE-0.5, R-17 and R-12.5 Districts were reclassified to the R-E, R-1, R-2, R-3, and R-4 Districts, respectively. Cluster subdivisions continued to be subject to an administrative approval process, however, the approval determination was made by the Director of DEM (now DPWES) subject to standards. The cluster subdivision review standards as listed in Sect. 2-408 of the 1978 Zoning Ordinance are provided as follows:
 1. Within a single subdivision, a cluster subdivision may be permitted in the R-E through R-4 Districts upon the determination by the Director that such would be in accordance with the adopted comprehensive plan and the established character of the area, and the topography or other physical characteristics of the subject property are such that cluster development will produce a more efficient and practicable development or will promote the preservation of steep slopes, stream valleys, or desirable vegetation, or will provide land necessary for public or community facilities.
 2. A cluster subdivision development plan or preliminary subdivision plat prepared in accordance with the provisions of Chapter 101 of the Code, the Subdivision Ordinance, shall be submitted to the Director for review and determination as to whether the proposed subdivision is suitable for cluster development. Said plan/plat shall show topography, proposed layout of lots and streets and open space, and the location, where applicable, of recreation areas, parks, schools, highways, floodplains and other public or community uses.
 3. Upon a favorable determination by the Director of such plan, a cluster subdivision plat may be approved that conforms with the development plan and the cluster subdivision provisions presented in the zoning district regulations. Thereafter development shall be permitted only in accordance with the approved plan.
 4. In the approval of a cluster subdivision, in no case shall the maximum density specified for the applicable district be increased, nor shall the other applicable regulations or use limitations for the district be modified or changed, nor shall any

lot extend into a floodplain area unless approved by the Director based on the determination that:

- A. The particular floodplain, by reason of its size or shape, has no practical open space value, and
 - B. The amount of floodplain on the lot is minimal, and
 - C. The lot otherwise meets the required minimum lot area specified for the district in which located.
5. Any person aggrieved by a decision of the Director may, within ten (10) days of such decision, file an appeal in accordance with the provisions of Sect. 17-110.
- R-C Cluster by Special Exception. On July 26, 1982, Zoning Ordinance Amendment ZO 82-63 was adopted which allowed cluster subdivisions in the R-C District subject to Board approval of a special exception. Concurrent with the comprehensive rezoning of land located in the Occoquan Watershed to the R-C District in order to protect water quality, the Board determined that a cluster development option within the R-C District could be appropriate under certain circumstances with site specific development conditions. Pursuant to the adoption of this amendment, review of a cluster subdivision through the public hearing process was established in the R-C District. The current minimum district size of 10 acres and minimum open space requirement of 50% of the site area were established for cluster subdivisions in the R-C District with this amendment.
 - R-E and R-1 Cluster by Special Exception. On October 17, 1983, Zoning Ordinance Amendment ZO 83-91 was adopted which eliminated the cluster subdivision option as a permitted, by-right use in the R-E and R-1 Districts and permitted cluster subdivisions in the R-E and R-1 Districts, subject to the approval of a special exception. This amendment was the result of a recommendation by a Board Subcommittee formed to work with the citizens and the development community to study cluster subdivisions in the R-E through R-4 Districts. The Subcommittee determined that while cluster subdivisions should at that time remain a permitted by-right use in the R-2, R-3 and R-4 Districts, the desire to review proposals for environmental sensitivity and compatibility with neighboring development warranted the review of proposed cluster subdivisions in the R-E and R-1 Districts through the special exception process. This amendment established a 5 acre minimum district size and the 20% minimum open space requirements applicable to cluster subdivisions within the R-E and R-1 Districts.
 - R-2, R-3 and R-4 Cluster by Special Exception. On October 19, 1987, Zoning Ordinance Amendment ZO 87-150 was adopted which required special exception approval for cluster subdivisions in the R-2, R-3 and R-4 Districts. With the adoption of this amendment, there was no longer an administrative process to obtain approval of a cluster subdivision. All new cluster subdivisions required approval of a special exception by the Board of Supervisors. Coincident with this amendment, Sect. 2-408 of the Zoning Ordinance which previously contained the standards for review of cluster subdivisions as a by-right subdivision option was deleted from the Zoning Ordinance.